

March 15, 2010

Mr. Gregory Brown
Environmental Scientist
California State Water Resources Control Board
Division of Water Rights
Sacramento, California

Dear Mr. Brown,

Please include the following comments to the Synthesis of Instream Flow Recommendations (Draft Report) on behalf of the Mammoth Fly Rodders.

In general it is our opinion that at this time setting a regime of permanent flows for Rush Creek is premature.

I attended a two-day seminar in Sacramento on February 2-3, 2010, representing the Mammoth Fly Rodders. The subject was preliminary discussions of a synthesis report draft. The science presented was excellent. The data complete. But none of it addressed the recovery, or the future sustainability of the trophy trout fishery that existed in pre-1941... the main focus of the 1994 court order, SWRCB 1631.

In fact nowhere in the years of endless studies have the requirements that must be present in Rush Creek for the life cycle of a trophy sized brown trout been discussed. Even more important, the conditions that must be present to support a trophy trout fishery have not been discussed. Without a complete understanding of what a community of trophy brown trout "need", from egg to alevin to fry, fingerling, juvenile and the adult stages of life...how can there be recovery?

It is most disturbing to read comments within the draft that refer to eliminating the pre-41 trout fishery termination language that presently exists in SWRCB 1631, WR 98-05, and WR 98-07. The court dealt with the pre-41 fishery issue long and hard...and accepted the testimony of the revered California Department of Fish & Game biologist, Elden Vestal, and others, as proof positive the fishery did exist. If the termination language were removed it could be interpreted as direct defiance of the Third District Court of Appeals decisions. And quite possibly create a new legal problem for LADWP.

I site the specific page and comments by the stream scientists concerning elimination of the termination language:

Page 3 of the Executive Summary, last paragraph. "Stream scientists suggest that the current termination criteria...in Order 98-07 have served their purpose..."

Page 126...Section 7.2 Adaptive Management. "...process begun in Orders 98-05 and 98-07 should continue without the termination criteria..."

However on Page 116, mid first column, the stream scientists recommend the termination criteria metrics in a Hunter (2007) memorandum should continue to be annually computed. Then above, the language reverts to the tired argument that there is no scientific or quantifiable data to provide a picture of the trout population that the streams supported on a self sustaining basis prior to 1941 (Hunter 2007). Once again, a disregard for the revered Elden Vestal's testimony that the trophy trout fishery of 1941 did indeed exist.

The rest of the section, up to 7.1 Future Monitoring, attempts to lower the expectations for restoration (of the trophy trout fishery) and provides the rationale. Note that Hunter refers to the monitoring of "catchable" trout with no definition of what a catchable trout are. Eight inches, Ten inches. How about monitoring trout over fourteen inches?

I am puzzled with the methods the Los Angeles Department of Water & Power has chosen to resolve the Rush Creek issue. If Woody Trehey & Associates had been allowed to continue restoration of the creek down to Mono lake the issue would have been resolved over twenty years ago...but DWP chose not to. Instead LADWP chose to continue contesting in the courts, losing, and spending millions of dollars on lawyers and consultants...with court ordered termination language yet to be satisfied.

The Rush Creek/Lee Vining Creek issues could yet come to a quick conclusion with the loss of much less water than the "synthesis report" will suggest, create a fantastic trout fishery for the anglers of California, the result of which would be something LADWP would be proud off.

How? Return to the Woody Trehey & Associates plan of twenty years ago. Bring back the track-hoes and backhoes and construct a series of deep pools throughout Rush Creek to Mono Lake.

What do I base my knowledge upon? Over sixty years of walking trout streams with a fly rod, catching and releasing trout by the thousands...and developing a deep love and sense of protection for the fish and the environs they thrive in.

I have made trout streams my passion and have been involved with reconstruction or habitat improvement projects on more than a dozen streams, creeks, lakes, and rivers in the past twenty years. On some I simply rolled rocks. On others I paid the bill.

Two projects come to mind. The first Boone Creek, a small spring creek on a ranch in central Idaho. The creek was a half-mile in length, 10-15 feet in width, with enough gradients to produce shallow riffle conditions from top to bottom. The trout population was concentrated around three head-gate diversion systems with small pools of water above and below. The fish were mostly 6-8 inch rainbows.

Rocks, logs and willow cuttings were stockpiled along the creek. A track hoe began working at the upper end and dug two ponds about 50' X 200' in surface area, and a series of twenty smaller pools, each four to six feet deep down the creek to the lower

ranch boundary. A three-man hand crew placed the material in each new pool. No trout were introduced because natural recruitment was excellent. The reconstruction took place in 2004. Today the trout population contains a full range of age classes with dozens of individuals over twenty inches weighing up to five pounds.

The second project is very similar to Rush Creek in characteristics, a tail-water trout stream, the Big Lost River, also in central Idaho, approximately three miles below a reservoir, with flows in the winter of 20 to 98 cfs, and 600 to 700 cfs during the summer irrigation season. The reconstructed stream section was approximately 1000 feet in length and 30 feet in width. The problems were two fold...bank erosion and an almost non-existent trout population. The entire length of stream was a fast shallow riffle-run that swept along a bend cutting away at the bank.

Large rocks, and logs with root wads, were stockpiled. A track-hoe began at the upper end constructing seven bank-barbs; large rocks were placed forming jetty-like structures angling upstream to divert the energy away from the bank. The barbs were placed in a step down manner allowing for different flow regimens. Logs were inserted a foot above the streambed, root wad pointed down stream for trout cover and fry habitat. Other logs, revetments, were placed along the bank creating more trout cover. The stream bottom was not disturbed by the track-hoe. The work was done in the year 2000. Today each bank-barb has water above and below four to six feet in depth. The depth of the entire run averages three feet and there are hundreds of trout averaging 15" in length with dozens over 18" weighing up to five pounds.

All projects mentioned required the use of heavy equipment and created thriving trout populations in a matter of a few years. Granted, at times maintenance has been required to patch a few failures. No more than would be required in the current "let nature do it" approach promoted by LADWP...which will take decades or centuries to reestablish.

It is the mammoth Fly Rodders opinion the intent of SWRCB 1631 was to restore the pre-1941 trophy brown trout fishery much sooner than the decades the experts admit it will take with the present passive process of restoration.

Respectfully submitted,

Richard Dahlgren
Mammoth Fly Rodders